

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking on Policies and Practices for Advanced Metering, Demand Response, and Dynamic Pricing.

Rulemaking 02-06-001  
(Filed June 6, 2002)

**ASSIGNED COMMISSIONER'S RULING  
CLARIFYING THE NOVEMBER 24, 2003 RULING AND SCOPING MEMO**

On November 24, 2003, I issued a ruling and scoping memo for Phase 2 of this proceeding. Section 3.i. of the scoping memo focuses on achievement of the demand response megawatt (MW) targets that the Commission adopted in Decision (D.) 03-06-032. Specifically, the scoping memo requires each respondent utility to submit a plan by March 31, 2004 that contains its specific 2004 plans for meeting the 5% goal in the year 2007. This ruling provides clarification on what the respondent utilities must include in their March 31, 2004<sup>1</sup> filings and describes the process that will follow those filings.

**1. Background**

The scoping memo required respondents to address three specific areas in their plan: (1) the need to modify the existing programs authorized in D.03-06-032 to achieve the 2004 goal, (2) preliminary identification of new

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<sup>1</sup> March 31, 2004 is a state holiday so the Commission's Docket Office will be closed. Respondents should still serve their plans on March 31, 2004, but may file the plan on April 1, 2004.

programs that may be needed to achieve the full 2007 goal, and (3) any proposed changes in the goal based on initial deployment of the programs. I will address and clarify each of these areas in the discussion below.

## **2. Need to Modify Existing Programs to Achieve the 2004 Goal**

After discussion with agency staff, I believe that enacting major modifications to existing programs to achieve the 2004 demand response MW goals is not the best use of respondents', parties' or the Commission's time and resources. Based on my understanding of preliminary information concerning the 2003 rollout of current programs, it appears that customer understanding of the programs may be in a nascent state, that is, during 2003 they were not yet sufficiently educated about the programs to make decisions about enrolling. Attempting major design modifications to the existing programs for 2004 may thus be premature, and possibly counterproductive, to our understanding of what customers prefer. Furthermore, fundamentally modifying existing programs will require a full Commission process,<sup>2</sup> and will undoubtedly lead to updated marketing efforts. The result would be to push the rollout of programs well into the summer and past the July deadline for meeting the 2004 goals.

For these reasons, it appears that enactment of major or fundamental changes to the programs will not be a fruitful exercise, at least for purposes of meeting the 2004 goals. The respondents should instead focus their March 31, 2004 plans on appropriate "tweaking" of the existing programs, or modifications to their marketing strategies in an effort to increase customer

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<sup>2</sup> A full process includes the development of a record, a Commission decision, and compliance filings which would take at least three months to complete.

interest and participation in the existing programs, utilizing, to the extent possible, any information available from the statewide monitoring and evaluation program currently underway. Proposed tariff language to implement these minor modifications should also be included as part of the March 31, 2004 plans. I will treat the utilities' proposed modifications as a motion, consistent with Ordering Paragraph 27 of D.03-06-032.

Interested parties may comment on the proposed modifications and implementing tariff language on April 21, 2004. My intent is that the ALJ will then issue a ruling approving or rejecting the proposed modifications, consistent with the authority granted in Ordering Paragraph 27 of D.03-06-032. Approved program modifications and tariff language would then be filed as compliance advice letters, with no additional protest period provided. To the extent that the ALJ believes a proposed modification exceeds the authority delegated by Ordering Paragraph 27 of D.03-06-032, she may propose it be resolved by resolution or decision.

### **3. Preliminary Identification Of New Programs That May Be Needed To Achieve The Full 2007 Goal**

Because it is difficult to determine the success of existing programs at this time, I believe that it is premature for respondents to focus on new programs for 2007. In addition, several key demand response issues are currently in flux that could significantly affect attainment of the adopted 2007 goals. Specifically the advanced metering infrastructure business case analysis is just beginning, the Statewide Pricing Pilot will undergo a second year of testing and evaluation, and a full evaluation of the large customer demand response programs will not be complete until the end of 2004. Having respondents identify and plan programs for 2007 now would force all parties and the Commission to speculate about

implementation and impacts of each of the above efforts on achievement of demand response goals. Rather than expending resources in such an effort, I believe it would be more productive to focus on planning for the upcoming year (2005) and await the outcomes of the demand response issues still being examined before beginning program planning for 2007.

This is not to say that reaching the 2007 goal is unimportant. Rather, initiating a planning process for 2005 is a higher priority at this time. Failure to reach the 2005 goals has implications for attainment of the 2007 goals, and given the challenges of successfully marketing and implementing new programs, it is critically important that we begin the 2005 process now. Thus, I direct respondents to identify potential new demand response programs, but to reduce their planning horizon for these programs from 2007 to 2005. Respondents should consider the March 31, 2004 plan as the first step of developing a plan for 2005. Respondents are encouraged to brainstorm as many ideas for new programs as possible. Further, I direct respondents to include proposals for a post-March 31 planning process, including a proposed schedule that will result in a successful Summer 2005 implementation in their filings. In addition, the proposed process should address how the demand response potential for new programs will be assessed. After reviewing the proposed process and programs, the ALJ or I will issue a ruling with further guidance on 2005 planning.

#### **4. Proposed Changes In The Goal Based On Initial Deployment Of Programs**

The scoping memo did not specify which goal (2004 MW goal or 2007 goal) respondents could propose changes to. After further thought, I believe that respondents should be focusing on providing us with a reasonable estimate of expected 2004 demand response, assuming a strong marketing effort of existing

programs in order to meet the adopted 2004 goals. Based on respondents' expected levels of 2004 demand response, they may conclude that meeting the adopted goal for 2004 is not realistic. If so, respondents may propose to revise the adopted 2004 demand response goals. Because of the obligation that utilities include the demand response goals as a resource in their procurement analyses,<sup>3</sup> we will consider whether modifying the 2004 goal for purposes of utility procurement responsibilities is necessary. Parties may comment on the estimates of 2004 demand response and revisions to the 2004 demand response goal, if any are proposed, on April 21, 2004. I believe that modifying the 2004 demand response goal will require a Commission decision, should it be recommended.

I believe it is premature at this time to consider modifying post-2004 goals until we develop a more comprehensive record concerning existing program achievements and potential new programs. Thus, respondents should develop new 2005 programs with the current 2005 demand response goals in mind. The long-term goals for price responsive demand can be reexamined, in conjunction with a review of the goals we might wish to establish for emergency load curtailment programs, in the new rulemaking that will follow this proceeding.

Therefore, **IT IS RULED** that:

1. Respondents shall focus their March 31, 2004 plans on appropriate "tweaking" of the existing demand response programs, or modifications to their marketing strategies in an effort to increase customer interest and participation in the existing programs, utilizing, to the extent possible, any information

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<sup>3</sup> Ordering Paragraph 1.c. of D.03-06-032 requires utilities to use the adopted demand response goals in their procurement analyses, but provides an opportunity for development of a contingency plan should the goals not be achieved.

available from the statewide monitoring and evaluation program currently underway. Respondents shall include proposed tariff language to implement the minor modifications proposed.

2. Respondents shall identify potential new demand response programs to attain the adopted 2005 demand response goals, rather than the 2007 goals, in their March 31, 2004 plans.

3. Respondents shall include proposals for a post-March 31 planning process, including a proposed schedule that will result in a successful Summer 2005 implementation, in their March 31, 2004 plans. The proposed process shall address how the demand response potential for new programs will be assessed.

4. The March 31, 2004 plans shall include respondents' estimates of expected 2004 demand response from existing programs, assuming a strong effort to market existing programs.

5. Respondents may propose changes to the 2004 goals based on their expected levels of 2004 demand response, in their March 31, 2004 plans.

6. Respondents' plans shall be served on March 31, 2004 but may be filed with the Commission's Docket Office on April 1, 2004.

7. Interested parties may file and serve comments on proposed 2004 program modifications and implementing tariff language, estimates of 2004 demand response, and revisions to the 2004 demand response goals, if any, on April 21, 2004. Reply comments may be filed and served on April 30, 2004.

Dated February 25, 2004, at San Francisco, California.

/s/ MICHAEL R. PEEVEY

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Michael R. Peevey  
Assigned Commissioner

## CERTIFICATE OF SERVICE

I certify that I have by mail, and by electronic mail to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Assigned Commissioner's Ruling Clarifying the November 24, 2003 Ruling and Scoping Memo on all parties of record in this proceeding or their attorneys of record.

Dated February 25, 2004, at San Francisco, California.

/s/ ELIZABETH LEWIS  
Elizabeth Lewis

## N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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